UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,786	12/17/2001	Terry Robison	10016714-1	7103

7590 08/09/2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O Box 272400
Fort Collins, CO 80527-2400

EXAMINER	
OPIE, GEORGE L	

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/022,786	Terry Robison	
	Examiner	Art Unit	
	George L. Opie	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1) X Responsive to communication(s) filed on 6 June 2005 .

2a) X This action is **FINAL**. 2b) ___ This action is non-final.

3) ___ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) X Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ___ Claim(s) _____ is/are allowed.

6) X Claim(s) 1-3, 6-10, 12-16 and 18-20 is/are rejected.

7) X Claim(s) 4-5, 11 and 17 is/are objected to.

8) ___ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ___ The specification is objected to by the Examiner.

10) ___ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ___ The proposed drawing correction filed on _____ is: a) ___ approved b) ___ disapproved.

12) ___ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)_ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ___ All b) ___ Some * c) ___ None of the CERTIFIED copies of the priority documents have been:

1. ___ received.
2. ___ received in Application No. (Series Code / Serial Number) _____.
3. ___ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ___ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

14) ___ Notice of References Cited (PTO-892)
15) ___ Notice of Draftsperson's Patent Drawing Review (PTO-948)
16) ___ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
17) ___ Interview Summary (PTO-413) Paper No(s). _____.
18) ___ Notice of Informal Patent Application (PTO-152)
19) ___ Other:

DETAILED ACTION

This Office Action is responsive to Applicant's 6 June 2005 request for reconsideration.

1. Request for copy of Applicant's response on floppy disk:
Please help expedite the prosecution of this application by including, along with your amendment response in paper form, an electronic file copy in WordPerfect, Microsoft Word, or in ASCII text format on a 3½ inch IBM format floppy disk. Please include all pending claims along with your responsive remarks. Only the paper copy will be entered -- your floppy disk file will be considered a duplicate copy. Signatures are not required on the disk copy. The floppy disk copy is not mandatory; however, it will help expedite the processing of your application. Your cooperation is appreciated.

2. Allowable Subject Matter

3. Claims 4-5, 11 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The U.S. Patents used in the art rejections below have been provided as text documents which correspond to the U.S. Patents. The relevant portions of the text documents are cited according to page and line numbers in the art rejections below. For the convenience of Applicant, the cited sections are highlighted in the *text documents*.

5. Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-2, 7-9, 13-15 and 19-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Newman (U.S. Patent 5,123,091). (U.S. Patent 5,).

As to claim 1, Newman (p17 20-30) teaches a method for operating a computer (method for packetizing data) comprising:
(a) preselecting at Least a first time limit (predetermined time, based on said baud rate) and a second time limit (message byte length)

(b) receiving an event signal from an event source (messages from a given peripheral)

(c) adding a change event corresponding to the received event signal to a list of change events in a memory of the computer (subsequent bytes are sent/stored into buffer 415, p11 5-54)

(d) iteratively repeating steps (b)and (c) (loop 520 to decision block509, p13 33 – p14 5) while neither the first predetermined time Limit between consecutive said event signals is exceeded (until the inter-character timer expires, p11 5-12) nor the second predetermined time limit since the receipt of a received event signal corresponding to a first change event in the List of change events is exceeded (terminating a packet and transmitting the packet ... if a predetermined time ... passes from the time a last byte was received, p17 20-30) and

(e) dispatching the List of change events for a thread (packeting of data ... and placed in the queue to send, p16 30-34) upon expiration of any of the first predetermined time limit (intercharacter timers expire , p11 32-47) or the second predetermined time limit (send a packet when is size is equal to said message byte length, p17 20-30).

Although Newman does not describe his established byte length limit in terms of a time period, it would have been obvious that the stipulated length limit intrinsically specifies a time constraint for triggering the dispatching of data which would serve as a second time limit to initiate the data dispatch.

As to claim 2, Newman (p11 5-54) teaches buffering an effect of said change events (stored in the buffer 415) until a cumulative effect of said plurality of change events is determined (packets are considered complete if the number of characters equals the maximum packet size).

As to claim 7, Newman teaches the "sequence of events continues", p11 5-54 and subsequent bytes are "stored in buffer 415", which corresponds to the iteratively repeating steps (b) through (e), and wherein a new list of change events is constructed for each iteration of steps (b) through (e).

As to claims 8-9, note the rejections of claims 1-2 above. Claims 8-9 are the same as claims 1-2, except claims 8-9 are apparatus claims and claims 1-2 are method claims.

As to claim 13, Newman (p14 39 – p15 5) teaches "device codes" for specifying identifications to associate given data with particular processes, which corresponds to the computing apparatus is configured to specify a thread name and to dispatch said List of change events to a thread having the specified name.

As to claims 14-15 and 20, note the rejections of claims 1-2 and 7 respectively. Claims 14-15 and 20 are the same as claims 1-2 and 7, except claims 14-15 and 20 are computer program product claims and claims 1-2 and 7 are method claims.

As to claim 19, note the rejection of claim 13 above. Claim 19 is the same as claim 13, except claim 19 is a computer program product claim and claim 13 is an apparatus claim.

7. Claims 3, 6, 10, 12, 16 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Newman and further in view of Cohen (U.S. Patent 5,881,315).

As to claim 3, Cohen teaches determining relevance of the event signals in accordance with predetermined relevance criteria (event type database 44 ... filter data, p6 41-48) and wherein said adding a change event corresponding to the received event signal to a list of change events is performed only for event signals meeting the predetermined relevance criteria (parsing operation to determine whether the event gets passed on, p7 20-53). It would have been obvious to combine Cohen's teachings with Newman's event dispatch system because the filtering function would facilitate a mechanism for eliminating extraneous events, thereby further increasing the efficacy of the transmission management service. See also Cohen p11 45-57).

As to claims 6, cf the Cohen teachings associated with claim 3 supra.

As to claims 10 and 12, note the rejections of claims 3 and 6 respectively. Claims 10 and 12 are the same as claims 3 and 6, except claims 10 and 12 are apparatus claims and claims 3 and 6 are method claims.

As to claims 16 and 18, note the rejections of claims 3 and 6 above. Claims 16 and 18 are the same as claims 3 and 6, except claims 16 and 18 are computer program product claims and claims 3 and 6 are method claims.

8. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure. Specifically, the below reference(s) will also have relevancy to one or more elements of the Applicant's claimed invention as follows:
U.S. Patent No. 5,819,281 to Cummins which teaches the conveying certain identified "relevant" applicable events;
U.S. Patent No. 5,493,648 to Murray et al. which teaches the display updates with time parameters for optimizing data exchange; and,
U.S. Patent No. 5,317,331 to Patty et al. which teaches the qq.

9. Response to Applicant's Arguments:

Applicant argues (claims 1, 8 and 14) that Newman's teachings do not make obvious the limitations of "a first time limit" and "a second time limit" as recited in the presently pending claims. Contrary to Applicant's contention, the Newman reference does teach two discrete timing mechanisms that clearly read-on the claimed first and second time limits. Newman's character timer equates to a first time limit and his byte length constitutes a second time limit. Newman describes the use of the two distinct limits in establishing certain periods for timely transmitting data for the computer. The two mechanisms provide boundries on the amount of time for a particular process. Hence, Newman's two parameters serve as time limits that meet the claimed conditions.

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)

The scope of the "first time limit" and "second time limit" terms clearly transcend the more narrow scope that Applicant attempts to impute through argument. Claimed subject matter, not the specification is the measure of the invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art, In re Self, 213 USPQ 1,5 (CCPA 1982); In re Priest, 199 USPQ 11, 15 (CCPA 1978). The aforementioned claim elements are clearly subject to a broad interpretation, as detailed in the rejections maintained above. The Examiner has a *duty* and *responsibility* to the public and to Applicant to interpret the claims *as broadly as reasonably possible* during prosecution (see *In re Prater, 56 CCPA 1381, 415F.2d 1393, 162 USPQ 541 (1969)*).

See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (1989) "During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.".

In considering the event signal and time limit recitations, it is noted that Applicant uses terminology that has broad meaning in the art, and thus requires a broad interpretation of the claims in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Limitations appearing in the specification but not recited in the claim are not read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir.. 2003). claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily. (see *Prater supra at 1404-05, 550-551).*

Applicant should set forth claims in language that clearly, distinctly, unambiguously and uniquely define the invention. The fact that Applicant has not narrowed the definition/scope of the current claims implies that Applicant intends an extensive coverage breadth of the claims, which is plainly met by Newman's prior art teachings.

The 2 time limit transmission control, in the manner recited in the pending claims does not constitute a non obvious improvement over the prior art.

Applicant's arguments, filed 6 June 2005, have been fully considered but they are not deemed to be persuasive. For the reasons detailed above, the rejections as set forth in the previous Office Action under ***35 U.S.C.*** § ***103*** are maintained.

10. THIS ACTION IS MADE FINAL.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE

THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

11. Contact Information:

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private-PAIR or Public-PAIR.

Status information for unpublished applications is available through Private-PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov.

Should you have questions regarding access to the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

All responses sent by U.S. Mail should be mailed to:

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Hand carried responses should be delivered to the *Customer Service Window* (Randolph Building, 401 Dulany Street, Alexandria, Virginia 22314) and, if submitting an electronic copy on floppy or CD, to expedite its processing, please notify the below identified examiner prior to delivery, so that the Applicant can "handoff" the electronic copy directly to the examiner.

The fax number (571) 273-8300 should be used for all fax transmissions to the Office.

All OFFICIAL faxes will be handled and entered by the docketing personnel. The date of entry will correspond to the actual FAX reception date unless that date is a Saturday, Sunday, or a Federal Holiday within the District of Columbia, in which case the

official date of receipt will be the next business day. The application file will be promptly forwarded to the Examiner unless the application file must be sent to another area of the Office, e.g., Finance Division for fee charging, etc.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at **(571) 272-2100.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Opie at (571) 272-3766 or via e-mail at *George.Opie@uspto.gov*. Internet e-mail should not be used where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the Applicant. Sensitive data includes confidential information related to patent applications.

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100